

September 30, 1953  
Letter Opinion No.  
53-120-L

The Honorable Harold C. Giss  
State Senator  
Yuma County  
P. O. Box 1351  
Yuma, Arizona

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Dear Senator Giss:

We are in receipt of your letter dated September 4, 1953. Your question was whether the county board of supervisors had the authority to levy a mill tax exclusive of the budgetary limitations found in Chapter 77, House Bill 156, of the Twenty-first Legislature, specifically for a chamber of commerce contribution.

It is the opinion of this department that in the absence of specific legislative authority the county board of supervisors would be without the power to levy such a tax beyond the budgetary limitations set forth in Chapter 77, supra.

You mentioned the authority given to the board of supervisors to expend money for immigration purposes. This authority is found in Section 17-356, A.C.A. 1939, as amended, which is set out below:

"17-356. Immigration commissioner.--(a) The board may appoint a county commissioner of immigration, to hold office for two (2) years and to receive an annual salary not exceeding six hundred dollars (\$600). The commissioner shall provide information requested by persons desiring to immigrate to his county, or make investments therein; correspond with immigration bureaus, chambers of commerce, tourists bureaus, or other commercial bodies, and provide data for the guidance of prospective immigrants, or tourists; furnish reliable information regarding localities in the county where the settler, or tourist, may choose a home or make investments; issue maps and pamphlets on the resources of the county; promote tourist travel, or the investment of capital, and distribute such documents

to insure their most useful circulation. The commissioner may hire necessary clerks, prescribe their duties and fix their compensation. Such expenditures shall be first authorized by the board when approving the annual budget, and when so authorized shall be included in the amount to be collected by the annual county tax levy.

(b) Counties of the first class may expend a further sum not to exceed fifty thousand dollars (\$50,000) annually, in the furtherance of such objects. Counties of the second class may expend a sum not in excess of ten thousand dollars (\$10,000), and counties of the third class may expend a sum not exceeding five thousand dollars (\$5,000) for such purposes."

A reading of the above section shows that Paragraph (a) gives the authority to the board of supervisors to appoint a county commissioner of immigration who is authorized to carry on many of the functions normally done by a chamber of commerce. Paragraph (a) gives the commissioner authority to hire the necessary clerks to carry out the activities which are authorized by this Paragraph. Any expenditure made by the commissioner must first be authorized by the board of supervisors when approving the annual budget and such expenditures are to be included in the amount collected by the annual tax levy.

Paragraph (b) of this Section provides that in addition to paying the salaries of the county commissioner and the necessary hired help, a county, depending upon its classification, may expend a further sum not to exceed a specified amount.

Paragraph (a) of Section 73-356, supra, specifically authorizes the hiring of a commissioner and clerical help, while Paragraph (b) authorizes in addition to the sums paid for clerical help an expenditure of a sum not to exceed the limitation set out therein. It is obvious that this Section 73-356, supra, is a further restriction on the budget and tax levy which a board of supervisors may make in addition to the budgetary restrictions found in Chapter 77 of the Twenty-first Legislature.

In the light of this analysis the opinion of this Department is that in the absence of specific legislative authority a county board of supervisors may not levy a mill tax exclusive of the budget limitation, specifically for a chamber of commerce contribution.

The type of legislative authority which would be required for such a levy as you mention can be found in Section 16-1201, A.C.A. 1939, as amended. In this Section a city or town is given authority to levy in addition to all other taxes a tax for the purpose of establishing free libraries.

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If the directors of the chamber of commerce wish the board of supervisors to levy a mill tax, exclusive of the budgetary limitation, they should seek passage of a bill similar to the law found in Section 16-1201, supra, and which specifically gives the board of supervisors authority to levy, in addition to all other taxes, a mill tax specifically for chamber of commerce purposes.

I trust that this will satisfactorily answer your question. If you desire, we will go into the subject more thoroughly and give you an official opinion on the matter. If you have any further questions on this, or any other subject, please feel free to call on us.

Very truly yours,

JAMES P. BARTLETT  
Assistant to the  
Attorney General

RCS:JPB:PO